

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

BASSAM NABULSI, AND HIS . Civil Action  
WIFE, RIMA NABULSI, . No. H-06-2683

Plaintiffs,

VS.

H.H. SHEIKH ISSA BIN  
ZAYED AL NAHYAN, H.H.  
SHEIKH NASSER BIN ZAYED  
AL NAHYAN, H.H. SHEIKH  
SAIF BIN ZAYED AL  
NAHYAN, H.H. SHEIKH  
ADBULLAH BIN ZAYED AL  
NAHYAN, H.H. SHEIKH  
MOHAMMED BIN ZAYED AL  
NAHYAN, and THE  
PARTNERSHIP OF THE ROYAL  
FAMILY BIN ZAYED AL  
NAHYNA,

Defendants.

October 1, 2008  
11:30 A.M.  
HOUSTON, TEXAS

TRANSCRIPT of PROCEEDINGS  
BEFORE THE HONORABLE SIM LAKE  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR PLAINTIFFS:

MR. ANTHONY G. BUZBEE  
The Buzbee Law Firm  
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FOR DEFENDANTS:

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Proceedings recorded by mechanical stenography, transcript  
produced by computer-aided transcription.

1 APPEARANCES (Continued):

2

3 OFFICIAL COURT REPORTER: MS. STEPHANIE KAY CARLISLE-NEISSER  
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**P R O C E E D I N G S**

(October 1, 2008)

THE COURT: Good morning. Please be seated.

This is Civil Action H-06-2683, Bassam Nabulsi  
versus His Highness Sheikh Issa Bin Zayed Al Nahyan.

Will counsel please identify themselves?

MR. BUZBEE: Tony Buzbee for the plaintiffs, Your  
Honor.

MR. DAWSON: Alistair Dawson for the defendant, Your  
Honor.

THE COURT: Thank you.

We are here on several docketed motions but I  
also have Mr. Buzbee's September 24th letter and Mr. Dawson's  
September 26th letter. They are not docketed.

Do you want me to have the clerk docket them?

MR. DAWSON: I don't think it's necessary.

MR. BUZBEE: No, Your Honor.

MR. DAWSON: I will also inform the Court that with  
respect to the depositions of the folks in Paris, we have  
reached agreement on the dates for those.

THE COURT: What dates are they?

MR. DAWSON: The 5th and 6th of November.

MR. BUZBEE: Yes, sir.

THE COURT: Okay. So, we're here on Docket Entry  
67, which is plaintiff's motion to compel the depositions of

1 Sheik Issa and his business manager in Houston, and Docket  
2 Entry 68, which is defendant's response and motion for  
3 protective order.

4 I have read the very thorough briefing on the  
11:32:10AM 5 issue. I don't see any issue -- any briefing by the plaintiff  
6 about whether the business manager would be subject to the  
7 subpoena powers of this Court. You make a lot of arguments  
8 that his testimony is relevant. How can I subpoena a U.A.E.  
9 citizen to be deposed anywhere?

11:32:33AM 10 MR. BUZBEE: Your Honor, you cannot. Obviously, I'm  
11 not trying to argue that you can. My argument was that the  
12 Sheikh controls this man because he is his business manager  
13 and that the Sheikh could be forced -- you have power over him  
14 because -- I believe you have jurisdiction over him to force  
11:32:51AM 15 him to have his business manager. So, that was my argument.

16 THE COURT: All right. There's a suggestion by the  
17 defendant that I should rule on the motions in a certain order  
18 and if I follow the defendant's suggestion that the Sheikh's  
19 deposition may not be needed. I intend to resolve all the  
11:33:14AM 20 pending jurisdictional issues at the same time. Although the  
21 Sheikh raises different arguments, they are nevertheless  
22 related. This is an old case, and it raises important issues.  
23 Judicial economy counsels that the motions be addressed  
24 together and soon.

11:33:36AM 25 The deposition of the Sheikh is relevant to his

1 motions to dismiss; and I will allow him to be deposed about  
2 his contacts with this forum and to be deposed concerning  
3 other questions dealing with the pending motions, including  
4 the defendant's motion to dismiss based on *forum non*  
11:33:58AM 5 *conveniens*. Plaintiff's counsel may not question him about  
6 the merits of the case, although, I realize there may be some  
7 overlap potentially on some questions.

8                   However, the business manager, Saif Al Suwaidi,  
9 is not subject to the subpoena powers of the Court.

11:34:20AM 10                   So, the plaintiff's motion to compel Sheikh  
11 Issa's deposition is granted.

12                   Plaintiffs's motion to compel the deposition of  
13 Saif Al Suwaidi is denied.

14                   Defendant's motion for protective order is  
11:34:35AM 15 denied as to the Sheikh and granted as to Mr. Al Suwaidi.

16                   As to the location of the deposition, the  
17 Sheikh should be deposed in Paris on November 5th or 6th at  
18 the same time counsel is there deposing the other two people.  
19 Apparently, he travels frequently to Europe. So, I'm ordering

11:34:58AM 20 that you-all tell me now or soon -- certainly within this next  
21 week -- the dates, times, and places of all three deponents.

22                   I don't think the Sheikh's deposition should  
23 take more than -- I don't think Mr. Buzbee should be allowed  
24 more than two hours of questioning, assuming he gets answers  
11:35:20AM 25 and not objections. If you want to, of course, depose him at

1 the same time for purposes of the pending motions, you may.

2 But Mr. Buzbee is limited to two hours of questioning.

3 The defendant sent over a proposed protective  
4 order. Have you-all agreed to the protective order?

11:35:43AM 5 MR. BUZBEE: We have not, Your Honor.

6 THE COURT: I looked at these documents. There's  
7 nothing particularly exciting about these documents. Why do  
8 you need a protective order?

9 MR. DAWSON: As I understand it, Your Honor, my  
11:35:56AM 10 colleague at my firm collected these documents and he is the  
11 one who told me -- he is in Judge Kent's court right now. But  
12 there are bank records that have confidential banking  
13 information and credit card payment -- bills, if you will,  
14 that have confidential information in them. Those are the  
11:36:15AM 15 only things that we have asked to be treated with  
16 confidentiality. I think it is both the bank account numbers,  
17 the credit card numbers, and, frankly, there are some rather  
18 large transactions in there.

19 THE COURT: Give these two stacks to Mr. Dawson.

11:36:31AM 20 You can either give Mr. Buzbee a stack now with  
21 the understanding he doesn't really care about the American  
22 Express account numbers or you can redact the account numbers  
23 and send them to him. The amounts could conceivably be  
24 relevant. The only thing you can redact is personal  
11:36:50AM 25 identifiers. I didn't see any Social Security numbers. There

1 are a lot of account numbers.

2 Mr. Buzbee probably has a bigger American  
3 Express account than the Sheikh anyway; so, he probably  
4 wouldn't be concerned about that.

11:37:03AM 5 MR. DAWSON: We will redact them, Your Honor.

6 THE COURT: Now, I also -- the defendant sent me  
7 objections to the proposed discovery. Nobody has asked that I  
8 rule on any of the objections. You don't have a motion to  
9 compel answers to interrogatories or requests for admissions  
10 or anything.

11 MR. BUZBEE: It's not ripe before you right now. I  
12 am going to.

13 THE COURT: I looked at them. Let's rule on them  
14 now. Which ones do you have a concern with?

11:37:29AM 15 MR. BUZBEE: The first problem that I have, Your  
16 Honor, is that the interrogatories are not verified.

17 THE COURT: They need to be verified certainly  
18 before the deposition.

19 MR. DAWSON: Yes, Your Honor.

11:37:38AM 20 THE COURT: What else?

21 MR. BUZBEE: The first issue, Your Honor -- I think  
22 it is a crux issue -- on the issue of *forum non conveniens*,  
23 that is, an alternative adequate forum, it's my position, as I  
24 put in the brief, that if the Sheikh is indeed in these  
11:37:54AM 25 pictures that I submitted, that he has influence over the

1 police and over the Court system such that Bassam Nabulsi  
2 cannot get a fair trial in that forum. And I think that's  
3 absolutely -- it is weird; it is unusual. But in this  
4 particular instance I think I'm entitled to know what his  
11:38:12AM 5 position is about those pictures.

6 THE COURT: Which particular motion -- which  
7 particular set of discovery are you referring to?

8 MR. BUZBEE: I think I titled it "Plaintiffs'  
9 Discovery Request Pertaining to *Forum Non Conveniens*." I have  
11:38:28AM 10 a copy of it, if I can approach.

11 THE COURT: Yeah, let me see it.

12 MR. BUZBEE: This is the answers that defendant  
13 provided.

14 Essentially, Your Honor --

11:38:42AM 15 THE COURT: Where are the photographs? That's the  
16 one I'm talking about.

17 MR. BUZBEE: They are in the record. I have a bunch  
18 of the photographs. I don't know if you want to see those.  
19 The actual request themselves that I sent to Mr. Dawson, I  
11:38:56AM 20 don't have on my person.

21 THE COURT: I don't think you sent me those with  
22 your protective order materials, did you?

23 MR. DAWSON: I don't think that I did. Not with the  
24 protective order, no.

11:39:07AM 25 THE COURT: You sent me objections to request for



1 production dealing with service of process and request for  
2 admissions dealing with service of process and interrogatories  
3 dealing with service of process. I didn't get the papers  
4 dealing with *forum non conveniens*.

11:39:23AM 5 MR. DAWSON: I don't think I submitted those because  
6 there was no motion on them and I didn't know that we would  
7 be --

8 THE COURT: Well, if you want a formal motion, my  
9 concern is that when you get --

11:39:34AM 10 MR. DAWSON: I am happy to argue it now. If I  
11 could --

12 THE COURT: If, in fact -- I don't recall all the  
13 photographs now; but I do seem to recall that there are law  
14 enforcement officials, or at least some type of people with  
11:39:49AM 15 uniforms, in some of the photographs. Wouldn't that be  
16 relevant?

17 MR. DAWSON: No.

18 THE COURT: Why?

19 MR. DAWSON: The Court in *MBI Group, Inc., versus*  
11:39:59AM 20 *Credit Foncier Du Cameroun* -- the cite to that is 558  
21 F.Supp.2d 21 -- addressed this exact issue. In that case, the  
22 plaintiff, just like this plaintiff, said, look, I was  
23 arrested in Cameroon. All these bad things happened to me in  
24 Cameroon. And the executive branch is in cahoots with the  
11:40:21AM 25 defendant. I cannot get a fair trial in Cameroon. And,

1 therefore, argue that *forum non conveniens* should not apply  
2 for the same reasons Mr. Buzbee has just argued.

3           The Court went through and said -- actually, in  
4 that case, if you read it, Judge, they had a lot more evidence  
11:40:39AM 5 that Cameroon was -- not -- that you couldn't have an adequate  
6 remedy in Cameroon. They had a thing from the Justice  
7 Department saying that the judiciary in Cameroon is not  
8 independent of the executive branch. And they had a lawyer  
9 put a thing in the record saying: This guy can't get a fair  
11:40:57AM 10 trial. He has been arrested. All these terrible things have  
11 happened to him.

12           And here's what the Court said: The Court says  
13 "the alleged actions at issue were taken by the executive  
14 branch of the Cameroonian government, not the judiciary."

11:41:11AM 15           The defendants have submitted evidence that the  
16 Cameroon judiciary is independent. The plaintiffs cannot  
17 disturb that presumption -- and there is a presumption under  
18 *forum non conveniens* law -- of independence by merely pointing  
19 to generalized reports that the executive branch may exert  
11:41:28AM 20 undue influence over the judiciary.

21           They went on to say "the fact that the fellow  
22 can't travel to Cameroon is not relevant for the *forum non*  
23 *conveniens*." They said "the mere fact that the plaintiff  
24 could not personally travel to the proceedings..."

11:41:43AM 25           THE COURT: Do you have some authority to the

1 contrary?

2 MR. BUZBEE: I haven't looked at that case.

3 THE COURT: We better have some briefing on this.

4 What else -- what else -- other than the photographs, what is

11:41:55AM 5 in dispute with respect to these -- written discovery?

6 MR. BUZBEE: My primary dispute -- and it's clear  
7 from reading. Because I've done a lot of my own due diligence  
8 and informal discovery on this case -- is that I do not

9 believe -- and Mr. Dawson can correct me -- that the Sheikh  
11:42:09AM 10 has even been consulted in answering these discovery answers,  
11 has not even been consulted.

12 Because, for instance, Ali Tahgi is a guy  
13 that's well-known here in Houston that sells fancy clothes  
14 across from the Galleria. He is a personal friend of this

11:42:22AM 15 Sheikh. But yet in his discovery responses, he says "after a  
16 diligent search, I cannot confirm or deny." That tells me  
17 right there that they never even asked this guy about these  
18 discovery requests.

19 Another example. He was asked if he met the

11:42:37AM 20 Mayor Brown. Well, Your Honor, I have a picture of him with

21 Mayor Brown. They spent a lot of time together when the mayor  
22 was in office here in Houston at the Four Seasons. And he  
23 again says in his deposition -- or his discovery responses, "I

24 cannot confirm it after a due diligence search." Now, one  
11:42:57AM 25 could say, well, he's such an important and busy man that he

11:43:09AM 1 meets so many great dignitaries that he wouldn't know. But  
2 remember, Your Honor, this is a guy that lived as much three  
3 months out of the year here in Houston. This was a  
4 significant part of his life here in Houston. He spent a lot  
5 of time with Mayor Brown. Mayor Brown sent letters for him  
6 for their business dealings and so forth. That tells me, just  
7 commonsensically, that he has not been consulted.

8 So, all the answers I have, which explains why  
9 they are not verified, are simply part of his little entourage  
10 over there answering this stuff for him while he -- I'll tell  
11 the Court -- I know for a fact -- is in Germany. He is in  
12 Germany. They are arguing the case should be in the U.A.E.  
13 Well, this fellow is living in Germany now. That's my problem  
14 with their discovery.

11:43:44AM 15 THE COURT: What contact have you had with the  
16 Sheikh?

17 MR. DAWSON: Well, Your Honor, respectfully, how we  
18 went about answering these -- and I can tell you that my firm  
19 was actively involved in preparing these answers and spent --  
11:43:57AM 20 a colleague -- colleague spent 10 days in the U.A.E. working  
21 to get these answers and working to get these documents.  
22 Frankly, how we went about it, who we talked to, and how we  
23 gathered information is all protected by privilege, Your  
24 Honor. I don't think that we --

11:44:12AM 25 THE COURT: You do need to have the Sheikh verify

1 the answers.

2 MR. DAWSON: I understand that. We will follow the  
3 Court's order with respect to that. Mr. Buzbee can examine  
4 him at his deposition, if that's how he wants to spend his  
11:44:24AM 5 time, cross-examining him about the answers --

6 THE COURT: Let me say, most of the answers that I  
7 read that deal with the three sets of objections, the answers  
8 were fairly reasonable as discovery goes. There were many  
9 cases where he denied a request but said "but I will admit a  
11:44:41AM 10 limited subset of that" or "you're not correct but here's the  
11 name of the right company." I don't think this is  
12 stonewalling in the sense that I have seen in some cases.

13 MR. BUZBEE: I agree with you, Your Honor. I do  
14 think, though, that the answers are not comprehensive and  
11:44:57AM 15 complete because the actual defendant has not been contacted  
16 or discussed. I believe that to be the case. I haven't heard  
17 otherwise.

18 THE COURT: There used to be a rule of Texas Civil  
19 Procedure, a motion to show authority, whether the attorney  
11:45:11AM 20 was required to show authority. I even filed a couple of  
21 those back in the dark ages. I'm not aware of any analog  
22 under the federal rules. Mr. Dawson is an officer of the  
23 Court. I take his word that he has dealt with the Sheikh. I  
24 don't know that you are prohibited from talking to a client  
11:45:30AM 25 through an intermediary. I bet plaintiff personal injury

1 lawyers sometimes go through referring attorneys, at least I'm  
2 told that might happen.

3 MR. BUZBEE: Yes, Your Honor. The verification will  
4 be a step towards. We'll ripen the issue on the pictures and  
11:45:46AM 5 that will probably be everything I need.

6 I would just point out to the Court that when  
7 we take the man's deposition, I'm limited to two hours; but I  
8 want remind the Court that we're going to have an interpreter  
9 which is going to slow the process down substantially.

11:46:03AM 10 THE COURT: If you are going to do that in Paris,  
11 what is that, an 8-hour difference?

12 MR. DAWSON: Six or seven, I believe, Your Honor.  
13 Six to London. I don't know if Paris is another hour or not.

14 THE COURT: Paris is another hour, I think.

11:46:17AM 15 So -- well, you better -- if you start first  
16 thing in the morning, you can call me if there's a problem.  
17 You might do the Sheikh early in the morning. These other two  
18 people -- the previous day -- I will let you worry about that.  
19 If you start the Sheikh's deposition at -- seven hours  
11:46:42AM 20 later -- you think about it, about the logistics.

21 MR. BUZBEE: I was just -- as far as the two hours.

22 THE COURT: Doesn't the Sheikh speak English?

23 MR. DAWSON: I don't believe he does.

24 MR. BUZBEE: He does.

11:47:01AM 25 MR. DAWSON: I think he's got limited English. I

1 think in that deposition it's probable that we will have an  
2 interpreter. I think there will be an interpreter in the  
3 deposition of Mr. Albars. I'm not sure that it will be  
4 necessary in the deposition of Mr. Faraj.

11:47:15AM 5 THE COURT: I'm going to change my mind and allow  
6 three hours for the Sheikh because of the interpreter.

7 MR. DAWSON: Are there any time limits on the other  
8 depositions or just that one?

9 THE COURT: I'm more concerned about the Sheikh. I  
11:47:27AM 10 think one of the other depositions will be fairly brief. I  
11 don't know about the lawyer's deposition.

12 MR. DAWSON: Fair enough.

13 THE COURT: Doesn't your co-counsel speak Arabic?

14 MR. BUZBEE: He does. My client and my co-counsel  
11:47:39AM 15 speak Arabic.

16 THE COURT: Okay.

17 MR. BUZBEE: They will be there to check the  
18 interpreter. I will be completely ignorant.

19 THE COURT: Get your motion to compel filed fairly  
11:47:49AM 20 quickly.

21 MR. BUZBEE: Yes, sir.

22 THE COURT: The turnaround was really remarkable on  
23 the pending motions. And I will rule as quickly as I can.

24 MR. BUZBEE: Yes, Your Honor.

11:48:00AM 25 THE COURT: Now that we're all here, is there

1 anything else we can profitably address this morning?

2 MR. DAWSON: I will tell the Court that I was  
3 disappointed not to get to argue a case that Mr. McDade lost  
4 that was relevant to this issue.

11:48:15AM 5 THE COURT: Which case is that?

6 MR. DAWSON: They *Wyatt versus Kaplan* case where  
7 Mr. McDade sued on behalf of Oscar Wyatt having to do with  
8 defamation or slander or something. And the Court denied  
9 discovery and then denied -- said there was no jurisdiction.

11:48:35AM 10 The issue up on appeal was whether that was appropriate. And  
11 Mr. McDade lost again. I was looking forward to using his  
12 losses to hopefully try and convince the Court of our  
13 position.

14 THE COURT: As you point out, Mr. Dawson, in a  
11:48:50AM 15 previous opinion I denied discovery because the then  
16 plaintiff's counsel basically asked for it very late as kind  
17 of a fallback argument in case he lost on the merits. This  
18 discovery has been timely and it is relevant. I'm not saying  
19 you are going to win on the motion, but I think plaintiff is  
11:49:13AM 20 entitled to reasonable discovery on these jurisdictional  
21 issues.

22 MR. DAWSON: I understand that, Your Honor. The law  
23 in the Fifth Circuit -- I'm not trying to reargue the issue.  
24 We may have to tea this up. But the law in the Fifth Circuit  
11:49:25AM 25 is clear that you are not entitled to discovery about



1 undisputed facts in a jurisdictional situation. And there's  
2 been a lot of facts that have been stipulated to. We gave, I  
3 think, 90 admissions in those set of admissions. We admitted  
4 90 sets of facts. We are not contesting any of his  
11:49:46AM 5 jurisdictional assertions. He said you came here every year.  
6 You bought all this stuff. All of that is uncontested. The  
7 law in the Fifth Circuit is you are not entitled to  
8 depositions or any further --

9 THE COURT: That may not be contested --

11:50:00AM 10 MR. DAWSON: But there are other things that might  
11 be contested.

12 THE COURT: I don't know that the defendant is  
13 allowed to circumscribe the universe of relevant facts and say  
14 "these are the relevant facts and we don't contest them;  
11:50:10AM 15 therefore, you are not entitled to discovery." There's a  
16 big -- let's don't beat around the bush. I am very skeptical  
17 about general jurisdiction but there might be specific  
18 jurisdiction here. I know the contract was signed in the  
19 U.A.E. and I know it's subject to U.A.E. law.

11:50:28AM 20 The plaintiff alleges in his amended complaint  
21 that the partnership began, whatever that means, here; and I  
22 assume the plaintiff will have some evidence showing that  
23 there was some type of oral agreement with the Sheikh here.  
24 Now, whether that's true or is sufficient, I don't know; but  
11:50:52AM 25 it certainly is a colorable claim that I think warrants some

1 discovery.

2 MR. DAWSON: I understand.

3 MR. BUZBEE: Your Honor, we will prove that this  
4 business that you see is just -- they formed many businesses.

11:51:02AM 5 That's just one vehicle through which they did some of their  
6 work. And we will prove to you that two months out of every  
7 year they were conducting their business out of the Four  
8 Seasons. Two months a year out of Houston, Texas, all their  
9 business was centered right there because that's where they

11:51:18AM 10 were.

11 THE COURT: Well, I look forward to the briefing. I  
12 can't wait for the new year --

13 MR. BUZBEE: I bet.

14 THE COURT: Anything else?

11:51:26AM 15 MR. BUZBEE: No, sir.

16 THE COURT: Thank you. You are excused.

17 (Proceedings concluded)

18 \* \* \*

19 I certify that the foregoing is a correct transcript from the  
20 record of proceedings in the above-entitled cause, to the best  
21 of my ability.

22

22 //s  
Stephanie Kay Carlisle-Neisser CSR, RPR  
23 Official Court Reporter

10/15/2008  
Date

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25